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Shaun R. Thompson
Disciplinary Counsel
P.O. Box 1099
Helena, MT 59624-1099
Tele.: (406) 442-1648
Office of Disciplinary Counsel

FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

BEFORE THE COMMISSION ON PRACTICE OF THE
SUPREME COURT OF THE STATE OF MONTANA

PR09-0612

IN THE MATTER OF KARL P. SEEL,
An Attorney at Law,
Respondent.

) Supreme Court Cause No.
)
) ODC File No. 08-085
)
) **COMPLAINT**
)
)

By request of a Review Panel of the Commission on Practice, the Office of Disciplinary Counsel for the State of Montana ("ODC") hereby charges Karl P. Seel with professional misconduct as follows:

General Allegations

1. Karl P. Seel, hereinafter referred to as Respondent, was admitted to the practice of law in the State of Montana in 1981, at which time he took the oath required for admission, wherein he agreed to abide by the Rules of Professional Conduct, the Disciplinary Rules adopted by the Supreme Court, and the highest standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

2. The Montana Supreme Court has approved and adopted the Montana Rules of Professional Conduct (“MRPC”), governing the ethical conduct of attorneys licensed to practice in the State of Montana, which Rules were in effect at all times mentioned in this Complaint.

Count One

3. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations as if fully restated in this Count One.

4. On or about September 11, 1998, Mark Bonamarte ("Bonamarte") was injured in a motor vehicle accident allegedly caused by Tara McFarland ("McFarland").

5. On or about May 2001, Bonamarte retained Respondent, on a contingency fee basis, to pursue his claim for damages.

6. On September 10, 2001, Respondent filed a Complaint and Demand for Jury Trial on Bonamarte's behalf against McFarland and a Summons was issued the same day by the Clerk of Court. The case was captioned *Bonamarte v. McFarland*, Missoula County District Court, Cause No. DV-01-709.

7. The Summons and Complaint were not served within three years in accordance with Rule 4E, M.R.Civ.P. The case was dismissed by Order of the Court on September 20, 2004.

8. In violation of Rule 1.1, MRPC, Respondent failed to provide Bonamarte with competent representation.

9. In violation of Rule 1.3, MRPC, Respondent failed to act with reasonable diligence and promptness in representing Bonamarte.

10. In violation of Rule 3.2, MRPC, Respondent failed to make reasonable efforts to expedite litigation consistent with Bonamarte's interests.

Count Two

11. ODC realleges and incorporates paragraphs 1 through 2 of the General Allegations as if fully restated in this Count Two.

12. On February 10, 2003, Pierce Flooring and Design ("Pierce") filed a Construction Lien against property owned by Mark Bonamarte ("Bonamarte") located in Gallatin County in the amount of \$1,351.80.

13. On July 7, 2003, Pierce filed a Complaint to Foreclose Construction Lien against Bonamarte. The case was captioned *Pierce Flooring & Design v. Bonamarte*, Gallatin County District Court Cause No. DV-03-353.

14. Bonamarte retained Respondent to represent him in regards to the matter.

15. On July 30, 2003, Respondent filed a Motion to Dismiss. The motion was denied on August 11, 2003 and Bonamarte was granted 20 days to "further plead." Respondent failed to file an Answer or other additional pleading. Default was entered against Bonamarte on September 5, 2003 for his failure to plead.

16. After Respondent filed a Motion to Set Aside Default, the Court, on November 18, 2003, issued an Order providing that Bonamarte's Motion to Set Aside Default would be granted if and when he lodged his Answer.

17. In a letter dated December 2, 2003, Pierce conveyed to Respondent an offer to settle for the sum of \$3,245 and gave a 2-week deadline. Respondent failed to convey the offer to Bonamarte. Pierce filed a Motion for Entry of Default Judgment on January 9, 2004, which the Court granted the same day.

18. Respondent filed an Answer and Counterclaim on February 11, 2004 and a hearing on Pierce's Motion for Entry of Default Judgment was held on the same day.

1 19. The Court affirmed its January 9th Order of Default. On February 19, 2004, the
2 Court entered its Findings of Fact, Conclusions of Law and Order for Judgment. Pierce filed a
3 Notice of Entry of Judgment on February 20, 2004.

4 20. Respondent filed a Notice of Appeal on March 22, 2004. On May 5, 2004, a
5 Notice of Filing of the record on appeal was entered by the Clerk of the Montana Supreme Court.
6 Respondent failed to file his opening brief within 30 days as required by the Rules of Appellate
7 Procedure. Pierce filed a Motion to Dismiss, which the Supreme Court granted on July 27, 2004.

8 21. The District Court granted Pierce's requested amount of attorney's fees on
9 December 23, 2005, and Judgment was entered on January 17, 2006 in the amount of \$3,182.02
10 for attorney's fees and costs together with accruing interest.

11 22. Respondent filed a Notice of Appeal pertaining to attorney's fees on February 21,
12 2006. On March 16, 2006, Respondent wrote Pierce's attorney, Dan Roth, and offered to settle
13 the claim in the amount of \$2,500. Pierce rejected the offer and made a counteroffer for the
14 amount of \$4,000. On April 5, 2006, Respondent paid Pierce \$4,000 with his own monies and
15 the parties filed a Voluntary Dismissal of the appeal with the Supreme Court Clerk's office on
16 April 18, 2006.

17 23. In violation of Rule 1.1, MRPC, Respondent failed to provide Bonamarte with
18 competent representation.

19 24. In violation of Rule 1.3, MRPC, Respondent failed to act with reasonable
20 diligence and promptness in representing Bonamarte.

21 25. In violation of Rule 3.2, MRPC, Respondent failed to make reasonable efforts to
22 expedite litigation consistent with Bonamarte's interests.
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26. In violation of Rules 1.4 and 1.2, MRPC, Respondent failed to reasonably consult Bonamarte about the means by which Bonamarte's objectives were to be accomplished, including failure to consult with Bonamarte regarding a settlement offer.

27. In violation of Rule 1.4, MRPC, Respondent failed to promptly inform Bonamarte of a decision or circumstance with respect to which Bonamarte's informed consent was required and/or Respondent failed to keep Bonamarte reasonably informed about the status of the matter.

WHEREFORE, the Office of Disciplinary Counsel prays:


1. That a Citation be issued to the Respondent, to which shall be attached a copy of the complaint, requiring Respondent, within twenty (20) days after service thereof, to file a written answer to the complaint;

2. That a formal hearing be had on the allegations of this complaint before an Adjudicatory Panel of the Commission;

3. That the Adjudicatory Panel of the Commission make a report of its findings and recommendations after a formal hearing to the Montana Supreme Court, and, in the event the Adjudicatory Panel finds the facts warrant disciplinary action and recommends discipline, that the Commission also recommend the nature and extent of appropriate disciplinary action, and,

4. For such other and further relief as deemed necessary and proper.

DATED this 12th day of November, 2009.


Shaun R. Thompson
Disciplinary Counsel

1 Shaun R. Thompson
2 Disciplinary Counsel
3 P.O. Box 1099
4 Helena, Montana 59624-1009
5 (406) 442-1648

6 Office of Disciplinary Counsel

7 BEFORE THE COMMISSION ON PRACTICE OF THE
8 SUPREME COURT OF THE STATE OF MONTANA

9 * * * * *

09-0612

10 IN THE MATTER OF KARL P. SEEL

11 An Attorney at Law,

12 Respondent.

) Supreme Court Cause No.
) ODC File No. 08-085

) **CITATION TO APPEAR IN ANSWER TO**
) **COMPLAINT OF THE OFFICE OF**
) **DISCIPLINARY COUNSEL**

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15 TO: Karl P. Seel, Respondent, Greetings:

16 YOU ARE HEREBY NOTIFIED that the Office of Disciplinary Counsel for the State of
17 Montana has filed with the Supreme Court of the State of Montana its Formal Complaint against
18 you pursuant to Rule 12 of the Rules for Lawyer Disciplinary Enforcement (2002), a copy of
19 which Complaint is attached hereto.

20 YOU ARE HEREBY COMMANDED to make and file with the Clerk of this Court your
21 written answer to said Complaint within twenty (20) days from and after service upon you of this
22 Citation and a copy of said Complaint as provided by Rule 18, RLDE (2002).


23 Any procedural motions, for example, a Motion for Extension of Time within which to
24 Answer the Complaint, filed by you or by your Counsel prior to the filing of the Findings,
25 Conclusions, and Recommendations of the Commission on Practice, shall be addressed to and

1 filed with Shauna Ryan, Commission on Practice, P.O. Box 203002, Helena, MT 59620-3002,
2 and served upon the Office of Disciplinary Counsel, P.O. Box 1099, Helena, MT 59624-1099,
3 as provided by Rule 18, RLDE (2002).

4 In the event of your failure to file an answer within the time prescribed, you will be held
5 and deemed in default as provided by Rule 12B(2), RLDE (2002).

6 WITNESS my hand and seal of this Court this _____ day of November, 2009.

7
8
9 (COURT SEAL)



ED SMITH,
Clerk of the Supreme Court
Of the State of Montana